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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,121	10/11/2005	Johannes Antonius Joseph Jacobs	VOB-38027	1564
116 7590 10/01/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER				
GOFF II, JOHN L				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,121

Applicant(s)

JACOBS ET AL.

Examiner

John L. Goff

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 3/24/05 11/26/07
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

1. Applicant is advised that should claim 29 be found allowable, claim 30 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC §101/112

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 32 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 32 requires "Use of a tape, film or yarn as defined in claim 17". Claim 17 is a method claim and not an article claim such that it is unclear what the use of a tape, film or yarn

“as defined in claim 17” specifically requires. Furthermore, it is unclear what method steps are required by the “Use” claim (See MPEP 2173.05(q)).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 17-25 and 29-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferrar et al. (U.S. Patent 5,578,370).

Ferrar teaches reinforcing an article for ballistic purposes by forming a solid woven cloth, tape consisting of a central layer of propylene (greater than 50 wt. % of the tape) sandwiched between two layers of propylene copolymer which two layers have a lower melting point (considered DSC melting point) than the central layer including monoaxially drawing the tape having a stretch ratio of more than 12 and having an E-modulus of at least 5 GPa and applying heat and pressure to attach the tape to a surface of a second layer of the same tape, i.e. considered the article (Column 2, lines 39-61 and Column 3, lines 13-19 and Examples 4 and 6).

Regarding claim 32, Ferrar is considered to use the tape for improving the mechanical strength, the stiffness and/or the impact resistance of the article.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrar.

Ferrar is described above in full detail. Ferrar is considered to teach monoaxially drawing the tape as there is no specific teaching of drawing the tape in more than one direction. In the event it is shown Ferrar does not necessarily monoaxially draw the tape the following rejection would apply. It would have been obvious to one of ordinary skill in the art at the time the invention was made that drawing the tape as taught by Ferrar would have been understood as monoaxially drawing the tape as Ferrar does not teach any requirement for stretching in more than one direction.

12. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrar in view of Cudney et al. (U.S. Patent 5,465,424).

Ferrar is described above in full detail. Ferrar is silent as to applying a covering layer and a layer of foam to the reinforced article, it being noted that while Ferrar teaches the reinforced article is used for ballistic purposes Ferrar does not specifically suggest how. Cudney is exemplary of a ballistic article that is wearable including a reinforced tape article wherein applied to the reinforced tape article is a layer of foam and applied to the layer of foam is a covering layer (Figure 14 and Column 3, lines 7-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in Ferrar a covering layer and a layer of foam as shown by Cudney to use in the reinforced article in a ballistic article that is wearable.

13. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrar and Cudney as applied to claims 26 and 27 above, and further in view of Hallal et al. (U.S. Patent 4,868,040).

Ferrar and Cudney as applied above teach all of the limitations in claim 28 except for a specific teaching of forming the covering layer from polyethylene, it being noted Cudney is not limited to any particular material other than requiring a flexible fabric. It was well taken in the art that flexible fabrics for use in a ballistic article include polyethylene fabric as evidenced by Hallal (Column 11, lines 31-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the flexible fabric covering layer taught by Ferrar as modified by Cudney from polyethylene a known suitable material as shown by Hallal only the expected results being achieved.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is (571)272-1216. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/
Primary Examiner, Art Unit 1791